

**FLOOD DIVERSION BOARD OF AUTHORITY  
FEBRUARY 11, 2016—3:30 PM**

**1. MEETING TO ORDER**

A meeting of the Flood Diversion Board of Authority was held Thursday, February 11, 2016, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commission representative Darrell Vanyo; Cass County Commissioner Ken Pawluk; West Fargo City Commissioner Mike Thorstad; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Melissa Sobolik; Fargo City Commissioner Mike Williams; Cass County Joint Water Resource District Manager Rodger Olson; Clay County Commissioner Kevin Campbell; and Moorhead City Council Member Nancy Otto. Also present was ex-officio member Breanna Paradeis-Kobiela, Buffalo-Red River Watershed District.

Staff members and others present: Cass County Administrator Keith Berndt; Interim Fargo City Administrator Bruce Grubb; Moorhead City Manager Michael Redlinger; Clay County Administrator Brian Berg; Cass County Engineer Jason Benson; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; Tom Dawson, Chairman, Chamber of Commerce Business Leaders Taskforce; Bruce Spiller, PE, CH2M; Colonel Dan Koprowski, St. Paul District Commander, Corps of Engineers; Aaron Snyder, Branch Chief for Project Management & Development, Corps of Engineers; Terry Williams, Project Manager, Corps of Engineers; and Judy DesHarnais, Deputy of Programs and Project Management, Corps of Engineers.

**2. MINUTES APPROVED**

***MOTION, passed***

**Mr. Mahoney moved and Ms. Otto seconded to approve the minutes from the January 14, 2016, meeting as presented. Motion carried.**

**3. AGENDA ORDER**

***MOTION, passed***

**Mr. Campbell moved and Mr. Pawluk seconded to approve the order of the agenda with one change to move the Corps of Engineers report as the first item under the Management update. Motion carried.**

**4. MANAGEMENT UPDATE**

**Corps of Engineers report**

The U.S. Army Corps of Engineers released its 2016 work plan on February 9<sup>th</sup>, which includes \$5 million in construction funding. Colonel Dan Koprowski congratulated the Corps and F-M area teams on this critically important milestone. He said the goal is to award the first federal construction contract this fall.

Mr. Pawluk asked about collaborative efforts between the Corps and Minnesota DNR on the EIS. Col. Koprowski said Corps staff are in constant communication with the DNR.

Col. Koprowski provided an update of activities by Corps of Engineers staff which includes the final review of plans and specifications on the diversion inlet structure; assistance with answering comments as part of the final MN EIS preparation; and permit coordination with North Dakota and Minnesota for the diversion inlet structure and southern embankment/dam.

**Program management consultant (PMC) report**

Bruce Spiller provided an update on activities over the last month including work on in-town levees; completion of Park East Apartments demolition; develop responses to public comments associated with the Minnesota Draft EIS (MN DEIS); develop Request for Qualifications (RFQ), Request for Proposals (RFP) and procurement strategy for the Public Private Partnership (P3); and finalize the updated cost estimate and draft financial plan.

## 5. ADMINISTRATIVE/LEGAL UPDATE

Attorney John Shockley said staff have been meeting with Ernst & Young to develop a financial plan, and Ashurst LLP is working on the Project Partnership Agreement (PPA) as part of the P3 component. He said staff have also been working on amendments to the Joint Powers Agreement (JPA).

## 6. TECHNICAL UPDATE

### Recommended Contracting Actions Summary

#### Task Orders

- HMG Task Order No. 8 Amendment 12—work-in-kind for additional cemetery assessment team support and additional baseline stream bank erosion evaluation in the amount of \$34,190;
- HMG Task Order No. 9 Amendment 15—hydrology and hydraulic modeling associated with Maple River Aqueduct physical model, updates for Phase 8 model and updates of NDSU agricultural study in the amount of \$98,021;
- HMG Task Order No. 13 Amendment 12—levee design and design support in the amount of \$610,000;
- HMG Task Order No. 17 Amendment 2—services during construction for Work Package 42 which includes 2<sup>nd</sup> Street pump station, 4<sup>th</sup> Street pump station and 2<sup>nd</sup> Street South flood wall, 2<sup>nd</sup> Street North/North of pump station, El Zagal Levee Phase 2, Mickelson Levee extension, and Park East, Howard Johnson Hotel, Shakey's and Fargo Public School office building demolition in the amount of \$1,605,000.

#### ***MOTION, passed***

**Mr. Mahoney moved and Mr. Williams seconded to approve the appropriation of funds for the task orders with HMG as outlined, and recommend approval of the appropriation of funds by the Dakota Metro Flood Board for the Diversion Authority. On roll call vote, the motion carried unanimously.**

#### Income Contract Amendment

- MN DNR Income Contract Amendment 4—labor and expenses to complete the final EIS and prepare adequacy information in the amount of \$137,464.92.

Mr. Pawluk said the contract does not include a schedule of due dates for the final EIS and determination of adequacy. Bob Zimmerman said based on the schedule from the MN DNR, the final EIS is to be completed in May with the determination of adequacy in July.

Ms. Sobolik asked if there will be additional funding requests after today. Mr. Spiller does not believe there will be any more requests from the MN DNR.

#### ***MOTION, passed***

**Ms. Otto moved and Mr. Thorstad seconded to approve Income Contract Amendment 4 with the Minnesota DNR in the amount of \$137,464.92, and recommend approval of the appropriation of funds by the Dakota Metro Flood Board for the Diversion Authority. On roll call vote, the motion carried unanimously.**

#### Contract Award

- Landwehr Construction, Inc.—award contract for In-Town Levees 2<sup>nd</sup> Street/Downtown Area Demolition for Howard Johnson Hotel, Shakey's and Fargo Public Schools office building in the amount of \$668,870;

#### ***MOTION, passed***

**Mr. Mahoney moved and Ms. Sobolik seconded to approve the appropriation of funds for a contract award with Landwehr Construction in the amount of \$668,870 and recommend approval of the appropriation of funds by the Dakota Metro Flood Board for the Diversion Authority. On roll call vote, the motion carried unanimously.**

Work Order

- Ashurst LLP—work order in an amount not to exceed \$124,000 for on-going review of the PPA and negotiations with the Corps of Engineers, review of the Notice of Intent, and review of amended Joint Powers Agreement (JPA).

***MOTION, passed***

**Mr. Pawluk moved and Ms. Otto seconded to approve the appropriation of funds for a work order with Ashurst LLP in an amount not to exceed \$124,000 and recommend approval of the appropriation of funds by the Dakota Metro Flood Board for the Diversion Authority. On roll call vote, the motion carried unanimously.**

**7. PUBLIC OUTREACH UPDATE**Committee report

Mr. Olson said the Public Outreach Committee met on February 10<sup>th</sup>. He said some board members and staff attended the Red River Basin Commission Conference in Grand Forks, which provided an opportunity to interact with others from different parts of the region. He said outreach efforts include meetings with the Moorhead Rotary Club and the City of Horace.

Business Leaders Task Force

Tom Dawson said chamber members attended a press conference earlier this week when it was announced that the diversion project is part of the Corps' 2016 work plan and will receive construction funding. Board members asked about help from the business community on outreach efforts with Moorhead City Council members and Minnesota legislators. Mr. Dawson said they can assist with outreach efforts.

**8. LAND MANAGEMENT UPDATE**Committee report

Mr. Mahoney said the Land Management Committee met on February 10<sup>th</sup> and approved one property acquisition in the City of Oxbow.

CCJWRD update

Mr. Brodshaug referred to the handout regarding land acquisitions completed through January 31, 2016, which includes completed acquisitions, budget figures, and completed negotiations. A purchase and lease agreement has been signed for the Fargo Public Schools property and documents for the Shakey's properties have been finalized and access for demolition has been granted.

**9. FINANCE UPDATE**Committee report

Kent Costin, Fargo Finance Director, said the Finance Committee met on February 10<sup>th</sup>. The committee reviewed the monthly financial report and vouchers, approved one property acquisition in Oxbow and approved a contract amendment with the Minnesota DNR. He said the cumulative spent on the project to date is \$184.4 million.

Voucher approval

The bills for the month are with CCJWRD for costs associated with in-town levees, access issues, Diversion Project Assessment Committee (DPAC) work, OHB levee, and Oxbow Country Club golf course construction; Fredrikson & Byron, P.A. for government relations services; Erik R. Johnson & Associates, Ltd. for legal services; Army Corps of Engineers for cost share funds; Ohnstad Twichell, P.C. for legal services; and Ashurst LLP for legal services.

***MOTION, passed***

**Mr. Mahoney moved and Mr. Olson seconded to approve the vouchers in the amount of \$4,347,514.07 for January, 2016. On roll call vote, the motion carried unanimously.**

**10. NEXT MEETING DATE**

The next meeting will be held on Thursday, February 25, 2016.

**11. ADJOURNMENT**

***MOTION, passed***

**On motion by Mr. Mahoney, seconded by Mr. Pawluk, and all voting in favor,  
the meeting was adjourned at 4:24 PM.**

Minutes prepared by Heather Worden, Cass County Administrative Assistant